IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

Writ Petition No.2675 of 2005

Manjunath Vittal Kamath
residing at 2/44 Rukmini Nivas
Pandurang wadi Goregaon(E)
Mumbai. 400063. Petitioner

vs

1. Indian institute of Technology
Powai, .Mumbai 400076
through its director

2. The Dean(Academic)
Indian Institute of Technology
Powai Mumbai 400076

3. The Convener
Post Graduate Committee
SJM School of Management
Indian Institute of Technology
Powai, Mumbai 400076

4. Prof. M.G. Korgaonkar
SJM School of Technology
Indian Institute of Technology
Powai, Mumbai 400076

5. Prof. Pushpak Bhattacharya
Computer Science Department
SJM School of Technology
Indian Institute of Technology
Powai, Mumbai 400076.

6. Prof Nageshwara Rao
SJM School of Technology
Indian Institute of Technology
Powai, Mumbai 400076.

7. Prof Usha Anant Kumar

SJM School of Technology
Indian Institute of Technology
Powai, Mumbai 400076.

8. The Chairman PGAPEC
Indian Institute of Technology
Powai, Mumbai 400076.

9. The Senate
through its Chairman
Indian Institute of Technology
Powai, Mumbai 400076.

10. The Dy Registrar(Academic)
Indian Institute of Technology
Powai, Mumbai 400076..... Respondents

MR Gaurav Kothari with Mr. Mahesh Joshi
i/b O.P.Soni and Co for the petitioner.

Mr Kishore Jain i/b M/s B.K.& Girdharlal & Co
for respondents.

CORAM: SWATANTER KUMAR,C.J.,&
S.C.DHARMADHIKARI, J.

Judgment reserved on April 9, 2007.
Judgment delivered on April 19,2007.

JUDGMENT(PER SWATANTER KUMAR,C.J.):-

Heard the learned counsel for the parties.

1. The petitioner passed his B.Tech in Civil Engineering from IIT, Madras, in the year 1983. He claims to have got admission in various Universities abroad but could not go because of non-

availability of student' svisa. In the year 1998 he wrote entrance examination for Post Graduate course in Master of Business Management (MBA) at IIT Kharagpur, which he passed in the year 2000. Desirous of pursuing his studies further, the petitioner applied for admission for Ph.D programme in IIT Mumbai in December 1999. He received admission and was asked to join Ph.D. Programme with effect from January 2000 and was duly provided with the copy of the rules and regulations for Ph.D programme of the said Institute. According to the petitioner, he was unable to find suitable guide for his research project in finance. However, he suggested the name of Prof. Subroto Roy, Professor at IIT Kharapur, who could be appointed as external guide but the request of the petitioner was orally refused. On 11th March 2002 the petitioner received a letter from the Dy Registrar, Academic of the respondent University that the petitioner's case was put up for cancellation of his registration as he had not commenced his project in accordance with the regulations. Vide letter dated 17th March 2002, the petitioner informed the concerned authority that he was willing to accept any research committee nominated by the IIT Mumbai, however, in the meanwhile it recommended the

cancellation. Vide letter dated 11th July 2002 the petitioner was informed of this fact. The petitioner had tried to meet the Dean (Academic) of the Institute, who declined to hear the petitioner in regard to the cancellation of registration. This matter was taken up by the Senate. In August 2002 the petitioner was informed that his registration would not be cancelled and one Prof. Korgaonkar was to be his guide and the petitioner was subsequently informed the thesis title “Recursive Prediction of time series through Dynamic reconstruction using radial Basis function Neural Networks”. Prof. Pushpakan Bhattacharya was appointed as the co-guide. Resultantly, on 28th August 2002,, the petitioner complied with the formalities for regular registration for Ph.D.

2. It is further averred in the petition by the petitioner that he was not given access to the computer facilities. Subsequently the petitioner wanted to change the topic which was also permitted and he was permitted to take the topic” Option Pricing: a modified Black-Scholes solution using Hurst Parameter”. The petitioner was satisfied with his guides as well as with the facilities available and wrote letters to the Systems

Administrator and head of the department and vide his letter dated 31st January 2004 prayed for extension of time as well as change of guide. He was called upon to present paper on 2nd April, 2004 at Research Conference at Goa, which he was not able to complete due to difficulties in computer lab. The petitioner was not registered for current semester in July 2004 and hostel accommodation was also declined and vide letter dated 23rd August 2004, he asked for formal letter that he had been removed from Ph.D. Programme. A letter was supplied to him on 8th September 2004. Finally vide letter dated 28th September 2004, the petitioner was informed by the Asst. Registrar of the IIT Mumbai that Ph.D registration of the petitioner had been cancelled.

3. Aggrieved by the said order the petitioner filed a writ petition before this court being Writ Petition No.3134 of 2004 questioning correctness of the said order. The said writ petition was allowed partly by this court, which directed that the matter be placed before the Senate. After passing of the order from this court, the petitioner also made representation to the Senate in regard to the cancellation of his Ph.D registration,

however, the Senate at IIT Mumbai, on 13th May 2005, at its 174th meeting decided not to interfere with the order of cancellation of registration. The decision of the Senate was communicated to the petitioner vide letter dated 4th July 2005. The said decision and the communication read as under:

> "Extract from the Minutes of the 174th Meeting of the Senate held on 13th May 2005
>
> (The minutes were confirmed in the 176th Meeting held on 9th September 2005)
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> ---
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> Item B-1(b) Case of Shri Manjunath V Kamath, Roll No.00427802 Research Scholar, Self Financed category, SJM School of Management whose registration was cancelled earlier:
>
> The Senate noted that the registration of Shri Kamath for Ph.D programme of the Institute has been cancelled by the Senate due to his non-fulfillment of academic commitments and poor academic performance. The Senate was of the

opinion that there is no merit/additional/ new information to reconsider his case.

Hence the decision taken by the Senate earlier remains unchanged.

Sd/- Asst Registrar(Academic)"

Indian Institute of Technology Bombay

No Acad/Senate/174/05
Date 4.7.2005

Shri Manjunath V Kamath
2/44 Rukmini Niwas
Pandurangwadi Goregaon (E)
Mumbai 400063

Sub: Representation in matter of registration of Ph.D

Sir,

With reference to your letter dated 2nd March 2005 requesting the Chairman, Senate to review/reconsider a case of cancellation of your Ph.D. Registration at SJM School of Management of this Institute, I am to inform you that the Senate in its 174th meeting held on 13th May 2005 considered your request and after detailed discussion it was decided that there is no need to

interfere with the decision taken earlier in your case.

Hence the decision taken by the Senate earlier remains unchanged.

Thanking you,

Yours faithfully

sd/- Asst Registrar (Acad)"

The above decision of the Senate meeting was communicated to the petitioner vide letter dated 1st August 2005.

4. According to the petitioner, the above orders are not sustainable in law, primarily for the reasons that in terms of rules 8.4 and 8.5 of the Rules and Regulations of the Indian Institute of Technology, Mumbai there is no time prescribed for Ph.D programme, and no jurisdiction is vested in the Senate to cancel the registration of a candidate for Ph.D programme. The action is otherwise arbitrary, without any basis and is violative of the principles of natural justice.

5. The respondents have taken a stand in their reply that the writ petition itself is not maintainable. The Senate had jurisdiction to pass appropriate orders, which it passed in its 174th meeting on 13th May 2005. The conduct of the petitioner over a considerable period in his Ph.D programme spreading for nearly 6 years, is unbecoming of Research Scholar and despite grant of several concessions, he failed to complete the programme resulting in passing of the impugned order. It is specifically stated in the reply that the name of Prof. Subroto Roy of IIT Kharagpur was never put forth by the petitioner and in any case it was not necessary to appoint the said person as guide. The petitioner was told that till the petitioner's research committee was formed, the petitioner could not submit progress seminar and the petitioner should look for a guide from other department. The University has capable faculty and that is how guide and co-guide were appointed to supervise the theses of the petitioner.

6. In its 279th meeting of the PGAPEC held on 17th June 2002 the request of the petitioner dated 27th May 2002 was considered for approval of supervisor from IIT Kharagpur and

the same was not accepted, in view of the fact that there was no provision in the existing Rules to assign a supervisor from outside the Institute. The notings of the said committee are as follows:

> " The said committee further noted that (i) The petitioner has not presented his first annual progress seminar which was due on 1st September 2001, (ii) the petitioner had not even applied for confirmation of Ph.D. Registration, and (iii) the petitioner's registration for spring semester 2001-02 had been disapproved by the faculty adviser. I say that by said letter, the petitioner was informed that in view of the serious lapses on his part and lack of interest in fulfilling the academic requirements, the PGAPEC had recommended to the Senate for cancellation of the petitioner's Registration".

The petitioner thereafter defaulted repeatedly and took no effective steps to comply with the above requirements.

8. We may also appropriately refer to the stand of the University in regard to the cancellation of the registration of the petitioner, which reads as under:

> "I say that the recommendations of the Research Progress Committee were considered and approved by the Post Graduate Academic Performance Evaluation Committee (PGAPEC) in the meeting held on August 26, 2004. I say that the decision was finally approved by the Chairman, Senate on August 27, 2004, and was communicated to the petitioner by a letter dated August 31, 2004. I say that the Senate of the Institute is competent to cancel the registration of any student who in its opinion is not performing according to the prescribed standards. I say that the Senate's powers over ride the said rule 7.5 and the action taken by the Senate is in order. I say that after the approval of the Chairman and the Senate, the decision of cancellation of registration

was communicated to the petitioner vide a letter dated August 31, 2004. I say that the decision to cancel the registration of the petitioner is on account of his failure to cope up with the requirements of research in the Institute. I say that the petitioner has twice presented the work done by him before the Research Progress Committee (RPC). After the first presentation the petitioner was issued detailed instructions to be followed for his future work. I say that thereafter, the Research Progress Committee (RPC) after carefully evaluating the petitioner's next Annual Progress Seminar(APS) recommended to the Senate that this registration be canceled. I say that the recommendations of the Research Progress Committee was an outcome of the evaluation of the two seminars presented by the petitioner himself and it is incorrect on the part of the petitioner to state that he was not given reasonable opportunity of hearing. Hence, the is otherwise also no violation of the principles of natural justice or

violation of Art 14 of the Constitution of India".

9. First and foremost, we will deal with the question of jurisdiction of the Senate to pass the impugned order. It can hardly be disputed that the Senate is the competent authority in regard to the consideration of the matters effecting educational standards of the University. Under the Regulations no authority has been defined, which is competent to pass such an order. It is also settled principle of law that an authority which is competent to grant registration would necessarily have the power to withdraw the registration. The power to do includes powers to undo, unless contrary is specifically provided in the Regulations. In any case this objection loses its entire significance in view of the fact that the petitioner had earlier filed writ petition challenging the order of the University canceling his registration being Writ Petition No. 3134 of 2004, which was withdrawn by the petitioner. In terms of that order, own case of the petitioner was that the representation made by him to the Senate has not bee considered and, therefore, the court passed the following order:

"Heard Mr. Naik in support of the petition. Ms Bawalia for the respondents.

2. In paragraph 5 of the reply, it has been stated that it is open to the petitioner to make an appropriate representation to the Senate in connection with the subject matter of this petition. Although a rejoinder is filed, Mr.Naik, on instructions seeks to withdraw this petition with a view to make a representation to the Senate. We expect the Senate to decide the representation on merits and as expeditiously as possible. Needless to state that in the event the representation is decided against the petitioner, and if the petitioner is required to challenge the decision, the contentions raised in the petition will be available to the petitioner at that time also.

The petition is allowed to be withdrawn".

10. Bare reading of the above order shows that there was a directive based upon the consent of the learned counsel

appearing for the parties that the Senate should consider the question in regard to the registration/cancellation of the registration. In furtherance thereto the Senate considered the matter in its 174th meeting held on 13th May 2005 and passed appropriate orders. Thus the objection raised by the petitioner is certainly without any merit.

11. The petitioner was granted registration for completing his Ph.D. from IIT, Mumbai, obviously subject to Rules and Regulations controlling grant of such registration. Firstly the petitioner had serious dispute at the time of appointment of guide/co-guide. Thereafter he wanted change in his subject of his research, which was also allowed. However, his request made in the year 2002 for appointment of guide from outside the University was declined, which action was apparently in consonance with the regulations. It squarely falls within the domain of the Academic Bodies to decide as to who can be permitted to be the guide of the research students in accordance with the rules and regulations. Such a decision is required to be taken objectively while keeping in mind the due balance between the request of the candidate and the

institutional interest of the University. Several opportunities had been granted to the petitioner to put at rest the controversy raised and to complete the theses at the earliest. However, this did not find favour with the petitioner and he persisted with his letters to the University pointing out various defects. As per the allegations of the University against the petitioner, vide their letter dated 13th February 2000 the respondent University put the petitioner to notice that the matter was being considered for cancellation of his admission. The relevant portion of the said letter reads as under:

> "Please refer to our letter of even number dated 22nd February, 202, since you did not bother to our advise in meeting the requirements, in consultation with the Head, SJM, School of Management, your case has been put up to the authority to cancel your admission".

In reply to this letter the petitioner informed that he was willing to accept any research committee nominated by the University. Thereafter the minutes of the PGAPEC committee held on 17th June 2002 was also communicated to him. Various breaches

committed by him were pointed out including that the petitioner had not put up his first annual progress seminar which was due in September 200l, had not complied for confirmation of Ph.D registration and that the registration for such semester had been disapproved by the committee. Thereafter the petitioner made various allegations against the authorities, including that the computer section was locked and that he did not have the password. It was the case of the University that the petitioner had been pursuing his other course at different institutions and having developed his interest, was only interested in continuing his registration with the Mumbai University without any object in mind. This fact was not even seriously disputed before us during the course of hearing. In these circumstances, it is difficult for the court to hold that the action of the University in canceling the registration of the petitioner and its reconsideration by the Senate suffers from the element of arbitrariness or is without authority of law.

We find no merit in this petition and the same is dismissed, leaving the parties to bear their own costs.

CHIEF JUSTICE

S.C.DHARMADHIKARI,J.